IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

WP(C).No. 8355 of 2007(T)

PETITIONER:

MR.V.P.DHARMADATHAN, AGED 56 YEARS,
S/O.PAPPU, JANAKI NIVAS, VADAKUMPURATH HOUSE,
S.N.JUNCTION, THRIPPUNITHURA, ERNAKULAM DISTRICT.

BY ADV. SRI.ALIAS M.CHERIAN

RESPONDENTS:

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1. MR.V.K.DIVAKARAN,
AGED 60 YEARS, S/O.KRISHNAN,
KAITHAVALAPPIL HOUSE, WARD NO.4,
NEAR PUTHENKAVU TEMPLE, POOTHOTTA,
ERNAKULAM DISTRICT.

2. MR.SUNI,
AGED 30 YEARS, S/O.V.K.DIVAKARAN,
KAITHAVALAPPIL HOUSE, WARD NO.4,
NEAR PUTHENKAVU TEMPLE, POOTHOTTA,
ERNAKULAM DISTRICT.

BY ADV. SRI.K.R.VINOD
SRI.K.V.VINOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE PETITION I.A.No.12110 OF 2006.

EXT.P2: COPY OF THE PANEL OF EXPERTS.

EXT.P3: COPY OF THE PETITION IN I.A.No.1564 OF 2007.

EXT.P4: COPY OF THE ORDER DATED 20.2.2007 IN I.A.No.1564 OF 2007.

EXT.P5: COPY OF THE ORDER DATED 28.2.2007 IN I.A.No.12110 OF 2006.

TRUE COPY

P.A.TO JUDGE

M.N.KRISHNAN,J

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W.P.(C).No.8355 of 2007

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Dated this the 14th day of June, 2007

JUDGMENT

This writ petition is filed seeking to quash the orders Ext.P4 and Ext.P5. The suit is for realisation of the amount due under Promissory note and the defendant had disputed his signature for sending documents for comparison of the signature by an expert and also submitted a panel of three persons. The court allowed the prayer for appointing an expert. But directed that Prof. Ashok Kashayap be appointed as the expert. The writ petitioner moved an application for review of that order on the ground that the expenses to be incurred will be very high and therefore he cannot afford. The petitioner seeks to review the order and request to appoint one of the members in the panel or a government expert. The learned Munsiff not only rejected that prayer but also dismissed the application for sending the documents to expert opinion.

2. Heard.

3. When the party comes before the court and suggest a panel and if the court is dissatisfied with the panel, normally the court can appoint an expert . But at the same time the court has

to see what is the fact involved in the case, what is the financial capacity of the party and whether injustice will be done by asking the party to spend such huge sum for realisation of a lesser amount. I think the learned Munsiff has lost track of the situation and had appointed Mr.Kashayap as the expert to compare. The learned counsel for the writ petitioner submits that he will be satisfied even if it is referred to the governmental expert for comparison. Since the case is pertains to Ernakulam, I feel interest of justice can be made by directing the Munsiff to send documents for comparison to the Forensic and Finger print expert at Thiruvananthapuram. In case the said bureau expresses its inability to do it in a reasonable period, then it may be send to an expert whose charges are reasonable and affordable to the plaintiff. Therefore, the order under challenge is set aside and the order is reviewed. The order dismissing the application is set aside and the Munsiff is directed to send the documents for expert opinion as stated in the previous part of the judgment.

Writ petition is disposed of accordingly.

M.N.KRISHNAN,JUDGE

dvs